



PATENT APPLICATION JAE 2/10

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Tomohide KASAME et al.

Group Art Unit: 2182

Application No.: 10/763,318

Examiner: C. SHIN

Filed: January 26, 2004

Docket No.: 118451

For: ELECTRONIC CONTROL UNIT AND ELECTRONIC DRIVING UNIT

**PETITION TO WITHDRAW FINALITY UNDER 37 C.F.R. §1.181**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants received a Final Rejection dated October 19, 2006. In the Final Rejection, claims 1-4, 9-10 and 21-16 were rejected under 35 U.S.C. §102(e) over a newly cited prior art reference, namely, Sindhu et al. (U.S. Patent Application Publication No. US 2005/0201396 A1) (Sindhu). This is a new ground of rejection. The Final Rejection indicated that "Applicant's amendment necessitated the new ground(s) of rejection in this Office Action" and accordingly, that the action is a final rejection.

Applicants respectfully submit that the final rejection is premature. In the first Office Action in this matter, dated March 24, 2006, claims 1-4, 9-10 and 21-26 were rejected under 35 U.S.C. §102(e) over Mizutani et al. (U.S. Patent Application Publication No. US 2004/0076154). In Applicants' responsive Amendment dated June 23, 2006, Mizutani was disqualified as prior art. Applicants' amendments to the claims in the June 23, 2006 submittal were limited to those addressing specific 35 U.S.C. §112, second paragraph, rejections identified in the Office Action dated March 24, 2006. Under these circumstances, Applicants respectfully submit that the new ground of rejection in the Final Rejection dated October 19, 2006 is necessitated by the disqualification of Mizutani as prior art and not by Applicants' amendments to the claims. It appears that if Sindhu anticipates the currently rejected claims, it equally anticipated the former claims, and could have been applied in the previous Office Action.

Accordingly, under 37 C.F.R. §1.181(a) and in accordance with MPEP §706.07(c), Applicants respectfully request that the finality of the Office Action dated October 19, 2006 be withdrawn.

Respectfully submitted,



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JAO:RMJ

Date: December 19, 2006

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